

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 25 of 1987

with

WEALTH TAX REFERENCE No 25-A and 25-B of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH TAX

Versus

AMBALAL SARABHAI T NOS 3 TO 5

Appearance:

1. WEALTH TAX REFERENCE No. 25, 25A and 25B of 1987
MR BB NAIK with MR MANISH R BHATT for Petitioner No. 1
MR MK PATEL for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 25/10/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

Though the Income Tax Appellate Tribunal, Ahmedabad has made only one reference which is numbered as Wealth Tax Reference No.25 of 1987, it is obvious that there are three references because three different assesses are involved though the assessment years are same i.e. 1974-75 and 1975-76 in case of each of the three assesses being Ambalal Sarabhai Trust No.3, Ahmedabad, Ambalal Sarabhai Trust No.4, Ahmedabad and Ambalal Sarabhai Trust No.5, Ahmedabad. Accordingly, the registry shall give three separate numbers to these references as Wealth Tax Reference Nos. 25, 25A and 25B of 1987.

2. The common question referred for our opinion in case of all the above named three assesses for each of the aforesaid two years is as under:-

"Whether, the Appellate Tribunal is right in law and on facts in holding that the assessee being a public charitable trust is entitled to exemption under section 5(1)(i) of the Wealth-tax Act, 1957?"

3. We have heard Mr BB Naik learned counsel for the applicant-revenue and Mr MK Patel learned counsel for the respondent-assesses in all the three references.

4. The Tribunal rendered its decision dated 28-10-1985 in Wealth Tax Appeal Nos.952 to 957 of 1983 on the basis of its order in case of the same assesses for earlier years.

5. Mr MK Patel learned counsel for the assessee points out that the Tribunal followed its order in earlier matters wherein it was held that since all the three assesses were held to be public charitable trusts under the provisions of the Income-tax Act,1961, the Tribunal held them to be public charitable trusts under the Wealth tax Act also. The learned counsel for the assessee has placed strong reliance on the decision dated 18-1-2001 of this Court in Wealth Tax Reference No.26 of 1985 wherein it was held that in view of the statutory scheme of the Wealth Tax Act read with the Income Tax Act, where the trust is held to be a public charitable trust under the Income Tax Act, the revenue has to treat such a trust as a public charitable trust under section 5 of the Wealth-tax Act also.

6. In view of the undisputed position that the three respondent-assesses have been held to be public charitable trust under the Income-tax At, 1961, following the aforesaid decision of this Court in Wealth Tax Reference No.26 of 1985, we are of the view that the Tribunal was right in holding that the assessee-trusts being public charitable trusts were entitled to exemption under section 5(1)(i) of the Wealth-tax Act, 1957.

7. We accordingly answer the question in each of these three references in the affirmative i.e. in favour of the assessee and against the revenue.

8. The References accordingly stand disposed of with no order as to costs.

(M.S.Shah, J)

(D.A.Mehta, J)

zgs/-